

AMENDED IN ASSEMBLY MARCH 8, 2006

AMENDED IN ASSEMBLY JULY 12, 2005

SENATE BILL

No. 1047

Introduced by Senator Bowen

February 22, 2005

~~An act to amend Section 7711 of the Public Utilities Code, relating to railroad corporations. An act to amend Sections 2159.5 and 18108.5 of, and to add Sections 18111 and 18604 to, the Elections Code, relating to elections.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1047, as amended, Bowen. ~~Railroad corporations: safety. Paid circulators: penalties.~~

(1) Existing law authorizes any person, company, or other organization that complies with specified conditions to agree to pay money or other valuable consideration on a per-affidavit basis or otherwise, to any person who assists another person to register to vote by receiving the completed affidavit of registration.

This bill would prohibit any person, company, or other organization from agreeing to pay money or other valuable consideration on a per-affidavit basis to any person who assists another person to register to vote by receiving the completed affidavit of registration. A violation of this provision would be punishable as a misdemeanor.

The bill would also make conforming changes to these provisions.

(2) Existing law provides that any person who gathers signatures for any state or local initiative, referendum, or recall petition may be paid by the person or persons having charge or control of the circulation of the petition based on the number of signatures gathered.

This bill would prohibit a person from offering to pay or from paying money or other valuable consideration to another person based on the number of signatures obtained on a state, county, municipal, or district initiative, referendum or recall petition. The bill would also prohibit a person from receiving money or other valuable consideration under these circumstances. A violation of this provision would be punishable as a misdemeanor.

By creating new crimes, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, the Public Utilities Commission is required to annually report to the Legislature on sites on railroad lines in the state that it finds to be hazardous, including a list of all railroad derailment accident sites in the state on which accidents have occurred within at least the previous 5 years.~~

~~This bill would require that the report include a list of all railroad derailment accident sites in the state on which accidents have occurred within at least the previous 10 years.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2159.5 of the Elections Code is amended
2 to read:

3 2159.5. Any person, company, or other organization that
4 agrees to pay money or other valuable consideration, ~~whether on~~
5 ~~a per-affidavit basis or otherwise~~, to any person who assists
6 another person to register to vote by receiving the completed
7 affidavit of registration, shall do all of the following:

8 (a) Maintain a list of the names, addresses, and telephone
9 numbers of all individuals that the person, company, or other
10 organization has agreed to compensate for assisting others to
11 register to vote, and shall provide to each person receiving that
12 consideration a written statement of that person's personal

responsibilities and liabilities under Sections 2138, 2139, 2150, 2158, 2159, 18100, 18101, 18103, 18106, 18108, and 18108.5. Receipt of the written statement shall be acknowledged, in writing, by the person receiving the consideration, and the acknowledgment shall be kept by the person, company, or organization that agrees to compensate that person. All records required by this subdivision shall be maintained for a minimum of three years, and shall be made available to the elections official, the Secretary of State, or an appropriate prosecuting agency, upon demand. As an alternate to maintaining the records required by this subdivision, the records may be filed with the county elections official, who shall retain those records for a minimum of three years. The county elections official may charge a fee, not to exceed actual costs, for storing records pursuant to this subdivision.

(b) Not render any payment or promised consideration unless the information specified in Section 2159 has been affixed personally on the affidavit in the handwriting of the person with whom the agreement for payment was made.

(c) At the time of submission of affidavits to elections officials, identify and separate those affidavits into groups that do and that do not comply with the requirements of Sections 2150 and 2159. A signed acknowledgment shall be attached to each group of affidavits identifying a group as in compliance with Sections 2150 and 2159, and a group as not in compliance with either Section 2150 or 2159, or both.

(d) Failure to comply with this section shall not cause the invalidation of the registration of the voter.

SEC. 2. Section 18108.5 of the Elections Code is amended to read:

18108.5. (a) Any person, company, or other organization that agrees to pay money or other valuable consideration, ~~whether on a per-affidavit basis or otherwise,~~ to any person who assists another person to register to vote by receiving the completed affidavit of registration who fails to comply with Section 2159.5, is guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months or when the failure to comply is found to be willful, not exceeding one year, or both.

(b) Any person, company, or other organization that agrees to pay money or other valuable consideration, ~~whether on a per-affidavit basis or otherwise,~~ to any person who assists another person to register to vote by receiving the completed affidavit of registration, upon a third or subsequent conviction, on charges brought and separately tried, for failure to comply with Section 2159.5 shall be punished by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the county jail not to exceed one year, or both.

(c) An elections official shall notify any person, company, or other organization that agrees to pay money or other valuable consideration, ~~whether on a per-affidavit basis or otherwise,~~ to any person who assists another person to register to vote by receiving the completed affidavit of registration, that three or more affidavits of registration submitted by a person who assisted another to register to vote do not comply with Sections 18100, 18101, 18103, or 18106. The elections official may forward a copy of each of the noncomplying affidavits of registration to the district attorney, who may make a determination whether probable cause exists to believe that a violation of law has occurred.

(d) This section shall not apply to any public agency or its employees that is designated as a voter registration agency pursuant to the National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg), when an elector asks for assistance to register to vote during the course and scope of the agency's normal business.

SEC. 3. Section 18111 is added to the Elections Code, to read:

18111. (a) Any person who offers to pay or pays money or other valuable consideration to another person, either directly or indirectly, on a per-affidavit basis to assist another person to register to vote by receiving the completed affidavit of registration is guilty of a misdemeanor.

(b) Any person who receives money or other valuable consideration based, either directly or indirectly, on a per-affidavit basis to assist another person to register to vote by receiving the completed affidavit of registration is guilty of misdemeanor.

1 (c) Nothing in this section shall be construed to prohibit
2 payment for assisting another person to register to vote by
3 receiving the completed affidavit which is not, either directly or
4 indirectly, on a per-affidavit basis.

5 SEC. 4. Section 18604 is added to the Elections Code, to
6 read:

7 18604. (a) Any person who offers to pay or pays money or
8 other valuable consideration to another person based, either
9 directly or indirectly, on the number of signatures obtained on a
10 state, county, municipal, or district initiative, referendum, or
11 recall petition is guilty of a misdemeanor.

12 (b) Any person who receives money or other valuable
13 consideration based, either directly or indirectly, on the number
14 of signatures obtained on a state, county, municipal, or district
15 initiative, referendum, or recall petition is guilty of a
16 misdemeanor.

17 (c) Nothing in this section shall be construed to prohibit
18 payment for petition circulation which is not based, either
19 directly or indirectly, on the number of signatures obtained.

20 SEC. 5. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the
25 penalty for a crime or infraction, within the meaning of Section
26 17556 of the Government Code, or changes the definition of a
27 crime within the meaning of Section 6 of Article XIII B of the
28 California Constitution.

29 SECTION 1. ~~Section 7711 of the Public Utilities Code is~~
30 ~~amended to read:~~

31 ~~7711. On or before July 1, 1992, and on or before July 1~~
32 ~~annually thereafter, the commission shall report to the~~
33 ~~Legislature on sites on railroad lines in the state it finds to be~~
34 ~~hazardous. The report shall include, but not be limited to,~~
35 ~~information on all of the following:~~

36 ~~(a) A list of all railroad derailment accident sites in the state on~~
37 ~~which accidents have occurred within at least the previous 10~~
38 ~~years. The list shall describe the nature and probable causes of~~
39 ~~the accidents, if known, and shall indicate whether the accidents~~

1 occurred at or near sites that the commission, pursuant to
2 subdivision (b), has determined pose a local safety hazard.

3 (b) A list of all railroad sites in the state that the commission,
4 pursuant to Section 20106 of Title 49 of the United States Code,
5 determines pose a local safety hazard. The commission may
6 submit in the annual report the list of railroad sites submitted in
7 the immediate prior year annual report, and may amend or revise
8 that list from the immediate prior year as necessary. Factors that
9 the commission shall consider in determining a local safety
10 hazard may include, but need not be limited to, all of the
11 following:

12 (1) The severity of grade and curve of track.

13 (2) The value of special skills of train operators in negotiating
14 the particular segment of railroad line.

15 (3) The value of special railroad equipment in negotiating the
16 particular segment of railroad line.

17 (4) The types of commodities transported on or near the
18 particular segment of railroad line.

19 (5) The hazard posed by the release of the commodity into the
20 environment.

21 (6) The value of special railroad equipment in the process of
22 safely loading, transporting, storing, or unloading potentially
23 hazardous commodities.

24 (7) The proximity of railroad activity to human activity or
25 sensitive environmental areas.

26 (c) In determining which railroad sites pose a local safety
27 hazard pursuant to subdivision (b), the commission shall consider
28 the history of accidents at or near the sites. The commission shall
29 not limit its determination to sites at which accidents have
30 already occurred, but shall identify potentially hazardous sites
31 based on the criteria enumerated in subdivision (b) and all other
32 criteria that the commission determines influence railroad safety.
33 The commission shall also consider whether any local safety
34 hazards at railroad sites have been eliminated or sufficiently
35 remediated to warrant removal of the site from the list required
36 under subdivision (b).